

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO  1437 Bannock Street Denver, CO 80202 <hr/> GERALD ROME, Acting Securities Commissioner for the State of Colorado,  Plaintiff,  v.  SETH WEISS,  Defendant.	<div style="text-align: right;"> <input type="checkbox"/> COURT USE ONLY <input type="checkbox"/> </div>
JOHN W. SUTHERS, Attorney General CHARLES J. KOOYMAN, 43595* Assistant Attorney General Ralph L. Carr Judicial Building 1300 Broadway, 10 <sup>th</sup> Floor Denver, CO 80203 Tel: (720) 508-6440 Fax: (720) 508-6037 Charles.Kooyman@state.co.us *Counsel of Record	Case No.:  Courtroom:
<b>COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF</b>	

Plaintiff, Gerald Rome, Acting Securities Commissioner for the State of Colorado, by and through his counsel, the Colorado Attorney General, submits his Complaint against the Defendant and alleges as follows:

### JURISDICTION

1. Plaintiff Gerald Rome is the Acting Securities Commissioner for the State of Colorado (the “Commissioner”), and is authorized pursuant to § 11-51-703, C.R.S., to administer all provisions of the Colorado Securities Act (the “Act”). Pursuant to § 11-51-602, C.R.S., the Commissioner is authorized to bring this action against the Defendant and to seek temporary, preliminary, and permanent injunctive relief and other equitable relief against the Defendant upon sufficient evidence that the Defendant has engaged in or are about to engage in any act or practice constituting a violation of any provision of the Act.

2. Pursuant to § 11-51-602(1), C.R.S., venue is proper in the district court for the City and County of Denver, Colorado.

### **SUMMARY OF ALLEGATIONS**

3. This case involves the unregistered offering of securities and fraudulent misrepresentations regarding the financial status of the issuer. Seth Weiss, a licensed attorney and former investment advisor, was the CEO and managing member of Genie Lens LLC. During his tenure at Genie Lens, Weiss directed and personally solicited investors for two unregistered securities offerings in 2010 and 2011. Prior to and during those unregistered offerings, Weiss was responsible for keeping Genie Lens's books and used that information to create financial statements for Genie Lens that he distributed to current and potential investors. Those financial statements, however, grossly misstated the financial condition of the company, at times exaggerating the amount of cash Genie Lens had by over \$1,000,000. Weiss sent these inaccurate financial statements to current and potential investors even though he knew they misled investors about the financial health and viability of Genie Lens. By failing to register two separate offerings of securities and distributing inaccurate and misleading financial statements, Weiss violated the registration and antifraud provisions of the Act.

### **DEFENDANT**

4. Seth Weiss ("Weiss") is an adult male individual whose last known residential address is 3711 South Albion Street in Englewood, Colorado. Weiss was a managing member of Genie Lens from its inception and served as CEO from at least 2007. Weiss resigned as managing member and CEO of Genie Lens on or about March 16 2012. Weiss was the signatory on the promissory notes at issue in this Complaint.

### **RELATED ENTITIES/INDIVIDUALS**

5. Genie Lens Technologies, LLC ("Genie Lens") is a limited liability company that was formed under the laws of Colorado on January 1, 2006. During the time Genie Lens was in operation, it had several principal places of business addresses, the last one noted in the Colorado Secretary of State's records at 3640 S. Jason Street in Englewood, Colorado. Genie Lens has been administratively dissolved.

6. Mark Raymond ("Raymond") is an adult male individual whose last known residential address is 12678 W. Progress Avenue in Littleton, Colorado. Raymond was the managing member of Genie Lens from inception to January 1, 2010. Raymond continued to act as the Chief Technical Officer ("CTO") for Genie Lens.

7. Melissa Grossman (“Grossman”) is an adult female individual whose last known residential address is 3499 S Clayton Boulevard in Englewood, Colorado. Grossman was the President of Genie Lens July 6, 2009 to her resignation in or around March 22, 2011. Grossman also served as Chief Operating Office (“COO”) for Genie Lens from approximately July 2009 to her resignation from the company.

8. Mark Adams (“Adams”) is an adult male individual whose last known address is 3300 S. Parker Road #110 in Aurora, Colorado. Adams served as General Counsel for Genie Lens from September 2010 to his resignation from the company.

## **GENERAL ALLEGATIONS**

### **The Company and its Technology**

9. Genie Lens is now an administratively dissolved company that was formed to research, develop, and manufacture various intellectual property patents. Upon information and belief, Genie Lens formed two subdivisions of the company: SolOptics and GloOptics.

10. SolOptics was purportedly developing technology for optical components to be used in photovoltaic panels. With their patented “Fusion” technology, SolOptics advertised that it could substantially increase the conversion efficiency for both new and pre-installed photovoltaic panels to decrease the cost of electricity generated by solar photovoltaics. GloOptics was purportedly developing technology for the manufacturing and printing of ultra-thin polymer lens film to be used in applications for branding, security, and authentication.

11. Genie Lens was co-founded by Weiss and Raymond on January 1, 2006. At the time of formation, Raymond was a managing member and allocated 600 voting member interests in the company. Raymond remained the managing member for Genie Lens until he voluntarily resigned in January 2010. Raymond was also the registered agent for Genie Lens from the time of formation until November 12, 2009.

12. At the time of formation, Weiss was a managing member and allocated 100 voting member interests in Genie Lens. Weiss became sole managing member of Genie Lens in January 2010. Weiss also served as the CEO of Genie Lens from at least 2007 to his resignation on March 16, 2012. Weiss was also the registered agent for Genie Lens from November 12, 2009 until the company was administratively dissolved.

13. Prior to forming Genie Lens, Weiss worked in the securities industry, at different times owning his own brokerage firm, Westcliffe

Securities, LLC, and his own investment advisory firm, Green Pairs Advisors, LLC. Weiss is not currently licensed as a sales representative, general principal or investment advisor in the state of Colorado.

14. Weiss is also licensed as an attorney in the state of Colorado, and handled corporate and securities transactions. Weiss's attorney registration currently lists him on "inactive status."

### **The Five-Year Promissory Note Offering**

15. On or around March 9, 2006, Genie Lens filed with the Colorado Division of Securities and United States Securities & Exchange Commission notices of exemption from registration for an offering of units representing a five-year promissory note and a non-voting class B membership interest in Genie Lens (the "Five-Year Note Offering"). The registration exemption relied upon was Rule 506 of Regulation D under the Securities Act of 1933.

16. The notes offered in the Five-Year Note Offering bore a 10% interest rate and became due sixty months from the date of issue, on or around February 28, 2011. Genie Lens raised approximately \$11,945,000 through the Five-Year Note Offering.

17. The Five Year Note Offering proceeds were used to purchase intellectual property from Mark Raymond and to assume the debt of Denver Coating and Laminating, LLC, a company that was owned and managed by Mark Raymond.

### **The Three-Year Promissory Note Offering**

18. Beginning in or around the fall of 2010, Genie Lens began soliciting potential investors with an offer for promissory notes bearing a 12% interest rate that were convertible into a non-voting class B membership interest in Genie Lens (the "Three-Year Promissory Note Offering").

19. Genie Lens intended to raise \$3,000,000 through its Three-Year Note Offering and represented to investors on April 14, 2011 that it had investor commitments for the full \$3,000,000. The Three-Year Promissory Note Offering actually raised approximately \$1,500,000 from 23 investors, 21 of whom were Colorado residents.

20. Weiss and Genie Lens made no filings with the Division with respect to the Three-Year Promissory Note Offering.

## **The Two-Year Promissory Note Offering**

21. In a letter dated December 9, 2010, Weiss solicited holders of Genie Lens's Five-Year Promissory Notes with an offer to extend the maturity date of those notes by two years (the "Two-Year Promissory Note Offering"). In the letter, Genie Lens, through Weiss, asked Five-Year Promissory Note holders to sign an "Amendment to Promissory Note" changing the maturity date of the Five-Year Promissory Notes from February 28, 2011 to March 1, 2013. In return for the extension, Genie Lens offered a 12% interest rate on the Two-Year Promissory Notes.

22. The letters dated December 9, 2010 containing solicitations for the Two-Year Promissory Note Offering also included a solicitation for Genie Lens's Three-Year Note Offering.

23. On information and belief, the December 9, 2010 solicitation letter was sent to all holders of Five-Year Promissory Notes.

24. Genie Lens executed Two-Year Promissory Notes with 77 investors, approximately 70 of whom are Colorado residents. These notes represented approximately \$15,000,000 in loans to Genie Lens.

25. Genie Lens made no filings with the Colorado Division of Securities with respect to the Three-Year Promissory Note or Two-Year Promissory Note offerings for which Weiss solicited investors.

## **Quarterly Investor Updates and Financial Statements**

26. In the Third Quarter of 2009, based upon the suggestion of Grossman, Genie Lens began to provide quarterly updates to its investors. Grossman also suggested that financials of the company should be provided as part of the investor updates.

27. In response to Grossman's suggestion, Weiss created financial statements which were distributed to investors with the quarterly updates. These financial statements typically included balance sheets reflecting Genie Lens's actual cash balance at the end of the respective quarter and were provided to investors beginning in February 2010 and quarterly through January 2012.

28. During the time Weiss created these financial statements, he was the signatory for Genie Lens's bank accounts and had control or access to those accounts from at least December 2009 through March 2012. Weiss received bank statements for Genie Lens at his home address. During the time he created these financial statements, Weiss was responsible for

keeping Genie Lens's books. On information and belief, Weiss also controlled access to the company books.

29. As discussed in greater detail below, the financial statements Weiss created overstated the amount of cash Genie Lens had available by as much as over \$1,000,000.

30. In February 2012, Grossman began receiving complaints from vendors and Mark Raymond regarding unpaid invoices. When Grossman raised the issue with Weiss, he told her that he had been supplementing Genie Lens's account with his own money and not paying vendors because a potential investor had insisted that there be \$1,000,000 in Genie Lens's bank account before he would invest.

31. Despite Weiss's assurances that vendors and employees would be paid, Grossman noted continued issues with payment of invoices and payroll into March 2012. Grossman became increasingly suspicious, and on or about March 6, 2012, Grossman told Weiss that she needed to see bank statements. On or about March 7, 2012, Weiss showed Grossman and Adams a document that he represented was a printed bank statement that purported to show a balance of over \$1,100,000 in Genie Lens's account.

32. One week later, on or about March 13, 2012, Grossman and Adams again confronted Weiss regarding the company's bank account. Weiss admitted that there was very little cash in the bank and that the statement he had shown Grossman and Adams showing more than \$1,000,000 in cash was an old statement. Grossman and Adams had Weiss sign paperwork to name Grossman as a signatory on Genie Lens's bank account. When Grossman checked the company account balance the following day, there was approximately \$5,000 in cash.

## **MISREPRESENTATIONS OR OMISSIONS OF MATERIAL FACT**

33. As part of the investor updates Genie Lens distributed for the quarters ending as of December 31, 2009 through December 31, 2011, Weiss generated financial statements purportedly showing Genie Lens's actual cash balance at the end of each quarter.

34. The financial statements, however, overstated the amount of cash balances as follows:

- a. For the quarter ending December 31, 2009, Genie Lens account records reflect \$107,467.77 in cash, but the financial statement created by Weiss lists a cash balance of \$208,001.00, an overstatement of \$100,534.23.

- b. For the quarter ending March 30, 2010, Genie Lens account records reflect \$27,673.00 in cash, but the financial statement created by Weiss lists a cash balance of \$170,940.00, an overstatement of \$143,267.00.
- c. For the quarter ending June 30, 2010, Genie Lens account records reflect \$47,182.55 in cash, but the financial statement created by Weiss lists a cash balance of \$380,724.00, an overstatement of \$333,541.75.
- d. For the quarter ending September 30, 2010, Genie Lens account records reflect \$34,266.43 in cash, but the financial statement created by Weiss lists a cash balance of \$254,493.00, an overstatement of \$220,226.57.
- e. For the quarter ending December 31, 2010, Genie Lens account records reflect \$49,286.35 in cash, but the financial statement created by Weiss lists a cash balance of \$333,084.00, an overstatement of \$283,797.65.
- f. For the quarter ending March 30, 2011, Genie Lens account records reflect \$170,341.55 in cash, but the financial statement created by Weiss lists a cash balance of \$689,564.55, an overstatement of \$519,223.00.
- g. For the quarter ending June 30, 2011, Genie Lens account records reflect \$191,121.63 in cash, but the financial statement created by Weiss lists a cash balance of \$1,281,962.79, an overstatement of \$1,090,841.16.
- h. For the quarter ending September 30, 2011, Genie Lens account records reflect \$118,719.56 in cash, but the financial statement created by Weiss lists a cash balance of \$1,202,630.52, an overstatement of \$1,083,910.96.
- i. For the quarter ending December 31, 2011, Genie Lens account records reflect \$753.11 in cash, but the financial statement created by Weiss lists a cash balance of \$1,054,091.09, an overstatement of \$1,053,337.98.

35. These overstated financials were provided to current and potential investors as part of solicitations by Weiss for both the Two-Year Promissory Note Offering and the Three-Year Promissory Note Offering. The following are representative examples:

- a. The investor update dated January 20, 2011—sent to all current investors—contained statements indicating that Genie Lens was seeking capital through the Three-Year Promissory Note Offering and attached financial statements overstating Genie Lens’s cash by \$283,797.65.
- b. On December 14, 2010, a potential investor, R.B., requested “financials” of Genie Lens after Weiss e-mailed him a copy of the note used in the Three-Year Promissory Note Offering and other documents regarding Genie Lens. Weiss subsequently sent R.B. investor reports for the end of 2009 and the first three quarters of 2010, which contained financial statement overstating Genie Lens’s cash by \$100,534.23, \$143,267, \$333,541.75, and \$220,226.57 respectively. R.B. eventually invested \$100,000 in the Three-Year Promissory Notes.
- c. On June 16 and 17, 2011, Weiss sent financial statements containing overstated cash balances to J.H., a potential investor Weiss had solicited to invest in the Three-Year Promissory Note Offering.
- d. On February 21, 2011, Weiss sent B.A., an investor in the Five-Year Promissory Notes, an investor update containing financial information for the quarter ending December 31, 2010 overstating Genie Lens’s cash balance by \$283,797.65. B.A. had received a letter soliciting him for the Two-Year Note Offering and e-mailed Weiss on February 17, 2011 with questions regarding Genie Lens’s financial statements and the offering. B.A. subsequently agreed to the Two-Year Promissory Note Offering’s terms.
- e. On February 11, 2011, Weiss sent an investor update containing financial statements that overstated Genie Lens’s cash balance to R.M., who had been solicited to invest in the Three-Year Promissory Note Offering. R.M. subsequently invested \$50,000 in Three-Year Promissory Notes.

**FIRST CLAIM FOR RELIEF**

(Offer or Sale of Unregistered Securities)

§ 11-51-301, C.R.S.

36. Paragraphs 1 through 35 above are incorporated herein by reference.



37. The notes offered in both the Two-Year and Three-Year Promissory Note Offerings are securities as defined by § 11-51-201(17), C.R.S.

38. By engaging in the conduct described above, Defendant has made “offers to sell” or “sold” securities in or from the State of Colorado pursuant to § 11-51-201(13), C.R.S.

39. The securities that Defendant offered or sold were not registered or exempted from registration as required by § 11-51-301, C.R.S.

40. The Commissioner is entitled to an award of damages, interest, costs, attorneys’ fees, restitution, disgorgement and other equitable relief on behalf of persons injured by the conduct of Defendant, jointly and severally, pursuant to §§ 11-51-602(2) and 604(1), C.R.S., based on violations of § 11-51-301, C.R.S. The Commissioner is also entitled to a temporary, preliminary and permanent injunction pursuant to §§ 11-51-602, C.R.S., based on violations of § 11-51-301, C.R.S., against Defendant, his agents, servants, employees, successors and attorneys-in-fact, as may be; any person who, directly or indirectly, through one or more intermediaries, controls, or is controlled by or is under common control with Defendant; and all those in active concert or participation with Defendant, enjoining violations of § 11-51-301, C.R.S., by virtue of § 11-51-602, C.R.S.

## **SECOND CLAIM FOR RELIEF**

(Securities Fraud)

§ 11-51-501, C.R.S.

41. Paragraphs 1 through 38 above are incorporated herein by reference.

42. The conduct described above in this Complaint constitutes violations of the Act in that in connection with the offer, sale, or purchase of securities in Colorado, Defendant, directly or indirectly:

- a. employed a device, scheme, or artifice to defraud;
- b. made written and oral untrue statements of material fact or omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading; or
- c. engaged in acts, practices or courses of business which operated and would operate as a fraud and deceit on investors,

all in violation of § 11-51-501(1), C.R.S.

43. Accordingly, Defendant is liable to the Commissioner for damages under § 11-51-604(4), C.R.S., by operation of § 11-51-602(2), C.R.S., based upon violations of § 11-51-501(1)(a), (b), and (c), C.R.S.

44. The Commissioner is entitled to an award of damages, interest, costs, attorneys' fees, restitution, disgorgement and other equitable relief on behalf of persons injured by the conduct of Defendant pursuant to §§ 11-51-602(2) and 604(4), C.R.S., based upon violations of § 11-51-501, C.R.S. The Commissioner is also entitled to a temporary, preliminary and permanent injunction pursuant to § 11-51-602, C.R.S., based upon violations of § 11-51-501, C.R.S., against Defendant, his agents, servants, employees, successors and attorneys-in-fact, as may be; any person who, directly or indirectly, through one or more intermediaries, controls, or is controlled by or is under common control with Defendant; and all those in active concert or participation with Defendant.

WHEREFORE, Plaintiff prays for relief as follows:

1. For preliminary and permanent injunctive relief against Defendant, and each of his officers, directors, agents, servants, employees, and successors; any person who directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with the Defendant, and all those in active concert of participation of Defendant, enjoining the Defendant's violations of the Act, or successor statute.

2. For a judgment in an amount to be determined at trial against the Defendant for restitution, disgorgement, and other equitable relief pursuant to § 11-51-602(2), C.R.S., and for damages, rescission, interest, costs, reasonable attorney's fees, and such other legal and equitable relief as the Court deems appropriate, pursuant to §§ 11-51-602(2) and 604, C.R.S., all on behalf of persons injured by the acts and practices of the Defendant constituting violations of the Act.

3. For such other and further relief as the Court deems proper.

Dated this 21st day of February, 2014.

JOHN W. SUTHERS  
Attorney General

*Under C.R.C.P. 121, § 1-26(7), a printable copy  
is maintained in the Office of the Attorney  
General*

*/s/ Charles J. Kooyman*

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